

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6200 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAJESH R PARIKH

Versus

STATE OF GUJARAT

Appearance:

MR PR THAKKAR for Petitioner

MR SA PANDYA,AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 26/04/99

ORAL JUDGEMENT

1. The petitioner in this petition under Article 226 of the Constitution of India has challenged the action of the respondents in not giving him appointment as a Clerk with effect from 1.4.1980 in the pay scale of Rs. 260-400 by making a grievance that even though there is a clear vacancy on the temporary establishment, he has been given appointment for 29 days only and after having a

break of one day, fresh appointment is given with the result that the petitioner is denied all the benefits of regular annual increments, provident fund, bonus, medical facilities etc. In substance, the petitioner has challenged his appointment for a period of 29 days. When the petition was filed in this Court, the petitioner had already put in more than five years of service with the respondents. It appears that when this Court issued notice in the matter to the respondents on 19.11.1985, no interim relief was granted. However, on 29.5.1986, this Court (Coram: R.A.Mehta,J.) had passed the following order:-

"Heard Mr.M.S.Shah and Mr.Shukla. It appears that the petitioner has worked for quite a long time of about 5 years with some breaks as a work charged employee and his service came to be terminated. The same has been challenged by Special Civil Application No. 6200/85. In the facts and circumstances of the case and especially in view of the long service put in by the petitioner, this is a fit case for interim direction of giving ad hoc fresh appointment to the petitioner during the pendency of this petition so long as scarcity work continues. The respondents are, therefore, directed to see that the petitioner is given such ad hoc appointment within a week from today. Civil Application disposed of accordingly. "

2. In view of the aforesaid order, the petitioner has continued in service till date. When the petition came up for final hearing before this Court, this Court suggested the respondents to consider the case of the petitioner sympathetically. This is particularly in view of the fact that the petitioner is in service since 1985. When by virtue of the interim relief granted by this Court, the petitioner has continued for all these 13 years, it would be in the fitness of things if the case of the petitioner is considered. When the matter is called out today, Mr.S.A.Pandya, learned AGP, on instructions from Shri P.J.Patel, Executive Engineer, who is present in the Court, submitted that the case of the petitioner can be considered in view of the recommendations dated 17.10.1988 of Daulatbhai Parmar Committee. Mr.Pandya further submitted that even though the petitioner was appointed as a Workcharge employee for 29 days, nobody has been appointed as Workcharge employee since 1980. Mr.Pandya also submitted that since the petitioner is having requisite educational qualification

for appointment to the post in question and in view of the fact that the petitioner is in the employment of the respondents since 2.4.1980, he is entitled to get the benefits arising out of the recommendations of Daulatbhai Parmar Committee. Mr.P.R.Thakkar, learned advocate appearing for the petitioner has also given his consent to the suggestions of Mr. Pandya, after taking instructions from the petitioner who is present in the Court, that if the services of the petitioner are regularised by providing benefits arising out of the recommendations of Daulatbhai Parmar Committee, the petitioner is ready and willing to accept the same.

3. In view of this, the petition is disposed of with the following directions:-

The respondents shall treat the petitioner as a daily wager and shall give him all the benefits arising out of the recommendations of Daulatbhai Parmar Committee with effect from 17.10.1988. It is clarified that for counting the period as well as seniority, the respondents shall be entitled to take into consideration the petitioner's initial date of appointment i.e. 2.4.1980. However, the arrears in terms of monetary benefits shall be paid from 17.10.1988. The respondents shall calculate such monetary benefits and pay to the petitioner within three months from the date of receipt of writ of this Court.

It is made clear that this order shall not be cited as a precedence in any other matter in future. The petition stands disposed of accordingly. Rule is made absolute with no order as to costs.

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